



The State of New Hampshire  
**Department of Environmental Services**



lum

5I

**Robert R. Scott, Commissioner**

November 4, 2019

His Excellency, Governor Christopher T. Sununu  
 and the Honorable Council  
 State House  
 Concord, New Hampshire 03301

**REQUESTED ACTION**

Authorize the New Hampshire Department of Environmental Services (DES) to amend an Aquatic Resource Mitigation grant (PO #1065890) to the Frankestown Land Trust (hereinafter "FLT"), Frankestown, NH (Vendor Code #254289) by extending the completion date to December 31, 2020, from December 31, 2019. No additional funding is involved in this time extension. The original agreement was approved by Governor and Executive Council on February 6, 2019, item #43. 100% Aquatic Resource Mitigation ("ARM") Funds.

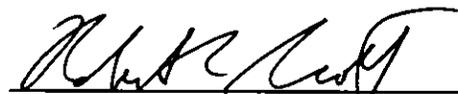
**EXPLANATION**

We are requesting approval of this amendment to the agreement due to problems encountered with finalizing the project and working with several landowners. The FLT has been working closely with the landowners on draft deed documents. The requested time extension will provide the FLT additional time to finalize the due diligence items and complete the closing on the conservation easement. The total of \$185,000 of the original award has not been spent yet on the land conservation effort and will be utilized to complete the land transactions.

New Hampshire RSA 482-A:3 requires a wetland permit for any proposed project that involves dredging or filling of a wetland. Before a wetland permit is issued, applicants must show that the proposed project will avoid adverse impacts to wetlands and will minimize and provide compensation for those wetland impacts which are unavoidable. The Aquatic Resource Mitigation Fund (ARM) authorizes the collection of mitigation funds in lieu of other forms of wetland mitigation as part of a Wetlands Permit Application and then issues the funds to wetland restoration and preservation projects across the nine watershed areas.

The Department issued the request for proposals for ARM Funds available in the Merrimack River watershed in April, 2018. The project proposed by the FLT was recommended for funding by the ARM Fund Site Selection Committee to purchase a 12-acre forested property and secure a conservation easement on a 11.6-acre parcel located along the South Branch of the Piscataquog River in Frankestown.

We respectfully request your approval of this item.

  
 Robert R. Scott, Commissioner

[www.des.nh.gov](http://www.des.nh.gov)

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095  
 (603) 271-3503 • Fax: 271-2867 TDD Access: Relay NH 1-800-735-2964

**Agreement for Services with the  
Francestown Land Trust, Inc.  
Amendment No. 1**

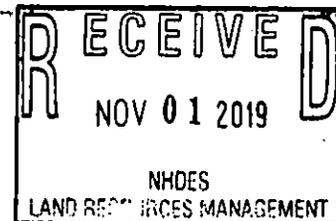
This Agreement (hereinafter called the "Amendment") dated this 24<sup>th</sup> day of October, 2019, is by and between the State of New Hampshire, acting by and through its Department of Environmental Services (hereinafter referred to as the "State") and the Francestown Land Trust, Inc. acting by and through its Chair, Larry Ames (hereinafter referred to as the "Grantee").

WHEREAS, pursuant to an Agreement (hereinafter called the "Agreement") approved by the Governor and Executive Council on February 6, 2019, agreed to perform certain services upon the terms and conditions specified in the Agreement and in consideration of payment by the State of certain sums as specified therein; and

WHEREAS, The Grantee and the State have agreed to amend the Agreement in certain respects;

NOW THEREFORE, in consideration of the foregoing, and the covenants and conditions contained in the Agreement, and set forth herein, the parties hereto do hereby agree as follows:

1. Amendment and Modification of Agreement: The Agreement is hereby amended as follows:
  - (A) The Completion Date as set forth in sub-paragraph 1.7 of the agreement shall be changed from December 31, 2019 to December 31, 2020.
2. Effective Date of Amendment: This Amendment shall take effect upon the date of approval of this Amendment by the Governor and Executive Council of the State of New Hampshire.
3. Continuance of Agreement: Except as specifically amended and modified by the terms and conditions of this Amendment, the Agreement, and the obligations of the parties thereunder, shall remain in full force and effect in accordance with the terms and conditions set forth therein.



Grantee Initials LA  
Date: 10/24/19

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and year first above written.

Francestown Land Trust, Inc.  
By [Signature]  
Larry Ames Chair

STATE OF NEW HAMPSHIRE  
COUNTY OF Cheshire

On this the 24<sup>th</sup> of October, 2019, before the undersigned officer, personally appeared Larry Ames, who acknowledged him/herself to be the person who executed the foregoing instrument for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

SUSAN W. BERGERON, Notary Public  
State of New Hampshire  
My Commission Expires June 1, 2021

[Signature]  
Notary Public/Commissioner of Deeds  
My Commission Expires: 6/1/21

THE STATE OF NEW HAMPSHIRE  
Department of Environmental Services

By [Signature]  
Robert R. Scott, Commissioner

Approved by Attorney General this 8<sup>th</sup> day of November, 2019

OFFICE OF ATTORNEY GENERAL

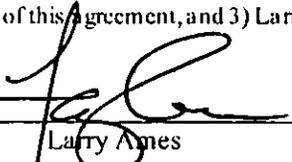
By [Signature]

Grantee Initials [Signature]  
Date: 10/24/19

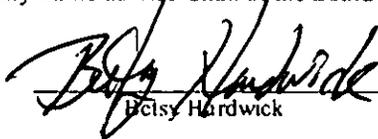


RE: NH /DES Aquatic Mitigation Fund Program

I, Betsy Hardwick, Vice-Chair of the Francestown Land Trust, Inc., do hereby certify that the Board of Directors of the Francestown Land Trust, Inc., 1) has authorized Larry Ames, Chair of the Board of Directors, to enter into an agreement with the New Hampshire Department of Environmental Services, to execute any documents which may be necessary to effectuate this agreement, and 2) this authorization has not been revoked, annulled or amended in any manner whatsoever, and remains in full force and effect as of the date of this agreement, and 3) Larry Ames has been elected to and now serves as Chair of the Board of Directors.

  
Larry Ames

In witness whereof, I have hereunto set my name as Vice-Chair of the Board of Directors of the Francestown Land Trust, Inc. this day of October, 22 2019.

  
Betsy Hardwick

State of New Hampshire  
County of Hillsborough

On this 22 day of October, 2019, Betsy Hardwick, personally appeared before me, acknowledging herself to be the Vice-Chair of the Francestown Land Trust, and that she, as such and being authorized to do so, executed the foregoing instrument for the purposes contained therein.

In witness whereof I hereunto set my hand and official seal.



**PAMELA A. FINNELL**  
Notary Public - New Hampshire  
My Commission Expires November 8, 2022

  
Justice of the Peace / Notary Public

\_\_\_\_\_  
COMMISSION EXPIRATION

**2683 ACRES CONSERVED IN FRANCESTOWN, LYNDEBOROUGH, GREENFIELD & BENNINGTON**

LARRY AMES, CHAIR Betsy HARDWICK, VICE-CHAIR KEVIN POIST, SECRETARY GREG NEILLEY, TREASURER  
BARRY WICKLOW BEN HAUBRICH TED GRAHAM PAUL LAWRENCE HANNAH PROCTOR

PO BOX 132, FRANCESTOWN, NH 03043 FRANCESTOWNLANDTRUST.ORG

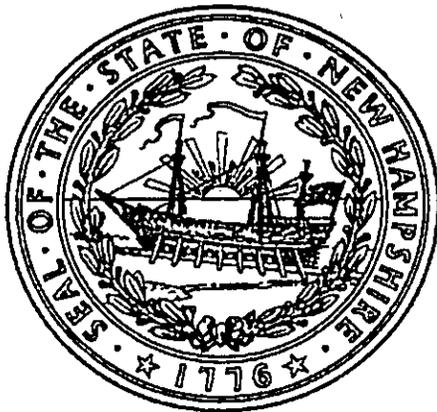
**State of New Hampshire**  
**Department of State**

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that FRANCESTOWN LAND TRUST, INC. is a New Hampshire Nonprofit Corporation registered to transact business in New Hampshire on December 01, 1986. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 106283

Certificate Number: 0004612137



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 30th day of October A.D. 2019.

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State





The State of New Hampshire  
**Department of Environmental  
 Services**



Robert R. Scott, Commissioner

January 7, 2019

His Excellency, Governor Christopher T. Sununu  
 and the Honorable Council  
 State House  
 Concord, New Hampshire 03301

APPROVED G & C

DATE 2/16/19  
 ITEM # 43

**REQUESTED ACTION**

Authorize the New Hampshire Department of Environmental Services (DES) to award an Aquatic Resource Mitigation (ARM) Fund grant to the Francestown Land Trust, Inc. (FLT), Francestown, NH (Vendor Code #254289) in the amount of \$185,000 for the purpose of conserving two parcels of land with 2,000 linear feet of frontage on the South Branch of the Piscataquog River in Francestown, effective upon G & C approval through December 31, 2019. 100% ARM Funds.

Funding is available in the account as follows:

	<u>FY'19</u>
03-44-44-442010-38710000-073-500581	\$185,000

Dept. Environmental Services, In-Lieu Wetland Mitigation, Grants – Non - Federal

**EXPLANATION**

New Hampshire RSA 482-A:3 requires a wetland permit for any proposed project that involves dredging or filling of a wetland. Before a wetland permit is issued, applicants must show that the proposed project will avoid adverse impacts to wetlands and will minimize and provide compensation for those wetland impacts which are unavoidable.

The DES wetlands program adopted a set of mitigation rules that establish what is necessary for an applicant to provide for wetland compensation. The current department rules spell out ratios for wetland compensation that include creating a new wetland, restoring a former wetland site, or protecting a high-quality aquatic resource by preserving adjacent upland habitat. The newest improvement, begun in 2006, to the mitigation options is commonly referred to as an *in-lieu fee program*. This mitigation option is ideal for projects that have difficulty in locating an appropriate mitigation site. The Aquatic Resource Mitigation Fund (ARM) authorizes the collection of mitigation funds in lieu of other forms of wetland mitigation as part of a Wetlands Permit Application.

The Department issued the request for proposals for ARM Funds available in the Merrimack River watershed in April, 2018. The FLT application was received and on November 28, 2018, DES announced the decision to fund the FLT project in the Merrimack River watershed. The project proposed by the FLT was recommended for funding by the ARM Fund Site Selection Committee. Attachment A lists the proposals received and Committee

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council

Page 2

members involved in the decision. The review of the awards by the Army Corps of Engineers and the New Hampshire Wetland Council resulted in full support of the recommendations.

The FLT will use the funds to purchase the 12 acre Connard property and secure a conservation easement on the 11.6 acre Murphy property located along the South Branch of the Piscataquog River. This project will protect both upland and riparian natural communities, including hemlock beech-oak-pine forest, 5.7 acres of red maple-black ash swamp, six confirmed vernal pools, floodplain forest, and an intermittent stream. This project will provide significant benefits to local wildlife and fisheries, with resident wild Eastern Brook Trout in this section of the river. Attachment B includes a map of the property.

In the event that other funds no longer become available, general funds will not be requested to support this program. This agreement has been approved as to form, content, and execution by the Attorney General's Office.

We respectfully request your approval.



Robert R. Scott, Commissioner

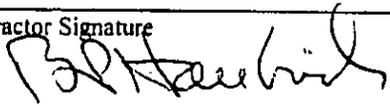
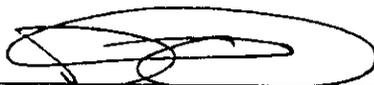
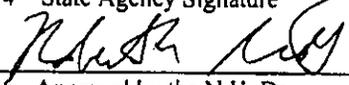
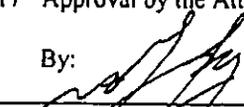
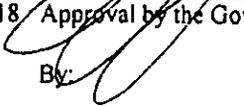
**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

The State of New Hampshire and the Contractor hereby mutually agree as follows:

**GENERAL PROVISIONS**

**I. IDENTIFICATION.**

1.1 State Agency Name NH Department of Environmental Services		1.2 State Agency Address 29 Hazen Drive, PO Box 95 Concord, NH 03302-0095	
1.3 Contractor Name Francestown Land Trust, Inc.		1.4 Contractor Address PO Box 132, Francestown, NH 03043	
1.5 Contractor Phone Number 603-547-9904	1.6 Account Number 03-44-44-442010-38710000-073-500581	1.7 Completion Date December 31, 2019	1.8 Price Limitation \$185,000
1.9 Contracting Officer for State Agency Lori L. Sommer, DES Wetlands Bureau		1.10 State Agency Telephone Number 603-271-4059	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory B. P. Haubrich, member Board of Directors, Francestown Land Trust	
1.13 Acknowledgement: State of <u>N.H.</u> , County of <u>Hillsborough</u>  On <u>12/18/18</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  [Seal] 		PAMELA A. FINNELL Notary Public - New Hampshire My Commission Expires November 8, 2022	
1.13.2 Name and Title of Notary or Justice of the Peace <u>Pamela Finnell, Notary</u>			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory <u>Robert R. Scott, Commissioner</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable)  By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable)  By:  On: <u>1/22/19</u>			
1.18 Approval by the Governor and Executive Council (if applicable)  By:  On: _____			

**2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED.** The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.18, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.14 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

**5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this

Contractor Initials

Date

BPH  
12/12/18

Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

#### 8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

#### 9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

10. **TERMINATION.** In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. **CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. **ASSIGNMENT/DELEGATION/SUBCONTRACTS.** The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice and consent of the State. None of the Services shall be subcontracted by the Contractor without the prior written notice and consent of the State.

13. **INDEMNIFICATION.** The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

#### 14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

Contractor Initials

Date

SPH  
12/14/18

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than thirty (30) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than thirty (30) days prior written notice of cancellation or modification of the policy.

**15. WORKERS' COMPENSATION.**

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A (*"Workers' Compensation"*).

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. **WAIVER OF BREACH.** No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

17. **NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. **AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no

such approval is required under the circumstances pursuant to State law, rule or policy.

**19. CONSTRUCTION OF AGREEMENT AND TERMS.**

This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

20. **THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. **HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. **SPECIAL PROVISIONS.** Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

23. **SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. **ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

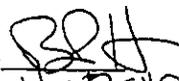
Contractor Initials                       
Date

**EXHIBIT A**  
**SCOPE OF SERVICES**

1. The State of New Hampshire, its successors and assigns, represented by the Department of Environmental Services (DES), agree to grant the Francestown Land Trust, Inc. the amount of \$185,000 for the purpose of acquiring land along the South Branch of the Piscataquog River owned by David McK. Connard, Trustee of the Susan and David Connard Family Revocable Trust of 2002, which is a  $\pm$  12 acre parcel of land located on Cross Road and The Francestown Turnpike, identified on the Francestown tax records as Map 3, Lot 34; and a conservation easement on  $\pm$  11.6 acre parcel of land owned by Michael T. Murphy and Mary C. Murphy located on Cross Road in the Town of Franctown, County of Hillsborough, State of New Hampshire, identified on the Francestown tax records as Map 3, Lot 33-1 (hereinafter: the "Property and Easement"). This agreement shall be performed in accordance with New Hampshire RSA 482-A; all applicable sections of the Administrative Rules, Env-Wt 100-800, and all other pertinent New Hampshire laws.
2. The Francestown Land Trust, Inc. shall use their grant funds to purchase the Property and Easement.
3. As owner on the Property and holder of the Easement, the Francestown Land Trust, Inc. accepts the following conditions or restrictions:
  - a. To utilize the funds herein provided by the State of New Hampshire, acting through DES, for the acquisition and recordation of a fee simple purchase of the Property as soon as possible, time being of the essence. The project shall be completed by December 31, 2019.
  - b. To utilize the funds herein provided by the State on New Hampshire, acting through DES, to defray in part the acquisition and associated transaction costs incurred in securing a Conservation Easement on the Murphy property.
  - c. To limit the use of the Property and Easement as hereinafter defined to conservation purposes in perpetuity.
  - d. That the Property and Easement acquired through this project will be monitored on an annual basis in accordance with the *Standards and Practices* for stewardship of the Land Trust Alliance, to ensure that the terms of the Conservation Easement are being adhered to, and to ensure that no actions are occurring which could be detrimental to the conservation attributes of the Property and Easement. The Francestown Land Trust, Inc. agrees to submit a copy of the annual monitoring report to DES to document the actions taken.
  - e. The Francestown Land Trust, Inc. agrees to place a sign, subject to its acceptability to the DES, at a prominent location on or near the Property and Easement. The sign should contain as a minimum the DES logo and the following statement: "This conservation Land has been protected with assistance from the New Hampshire Aquatic Resource Mitigation Fund." Should the DES sign be damaged or destroyed, the Francestown Land Trust, Inc. agrees to work with the Department to repair or replace it with identical signage and to share any costs associated with that repair or replacement to the extent reasonably practicable. The Francestown Land Trust, Inc. also agrees that where significant signage is placed at major access points, the ARM Fund program will be identified as a contributing partner to the acquisition of easement interests and the long-term protection of the Property;

Contractor Initials

Date

  
1/22/19

f. To return to DES ARM Fund Program any funds herein provided to the extent of any loss due to any title that proves to be less than clear and marketable for all properties protected under this contract;

g. To return to DES ARM Fund Program any funds if the Frankestown Land Trust, Inc. fails to complete the Property and Easement.

h. That all public access provided for in the terms of the conservation deeds will be in accordance with all federal and state policies of non-discrimination in public accommodation.

**EXHIBIT B**  
**BUDGET & PAYMENT METHOD**

	Budget	Payment Method
<u>Acquisition of Fee Simple Interest (Connard)</u>	\$ 140,000	Upon closing
Survey	\$ 4,256	Upon Closing
Legal Fees	\$ 2,000	Upon closing
Title Opinion	\$ 350	Upon closing
Title Insurance	\$ 2,089	Upon Closing
Stewardship	\$ 10,000	Upon closing
Appraisals	\$ 1,400	Upon closing
Real Estate Transfer Tax	\$ 900	Upon Closing
Recording Fees	\$ 92	Upon Closing
Legal	\$ 3,100	Upon Closing
<u>Acquisition of Conservation Easement (Murphy)</u>		
Survey	\$ 3,994	Upon Closing
Legal Fees	\$ 2,000	Upon Closing
Recording Fees	\$ 100	Upon Closing
Stewardship	\$ 10,000	Upon Closing
Appraisals	\$ 1,600	Upon Closing
Baseline Env. Assess.	\$ 1,000	Upon Closing
Connard/Murphy Wetland Assessment	\$ 1,969	Upon Closing
Watershed Assessments Associates	\$ 150	Upon Closing
<b>TOTAL DES ARM FUNDS</b>	<b>\$185,000</b>	
<u>Total amount to be authorized following approval by the Governor and Executive Council:</u>	<u>\$185,000</u>	

Payments shall be made by DES to the Frankestown Land Trust, Inc. upon approval of stated outputs and verification of the value of completed work through submittal of invoices for services rendered. DES will pay the Frankestown Land Trust, Inc. within 30 days of receiving the invoice.

Contractor Initials BPA  
Date 12/20/19

The payments listed above are inclusive of project labor and expenses. Invoices shall be formatted to note completion of services.

The billing address shall be as follows:

NH Department of Environmental Services  
29 Hazen Drive, PO Box 95  
Concord, NH 03302-0095  
ATTN: Lori Sommer, Wetlands Bureau

Invoices shall be approved by the Contract Officer before payment is processed.

**EXHIBIT C**  
**SPECIAL PROVISIONS**

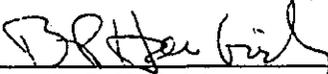
This section is intentionally left blank.

Contractor Initials BLH  
Date 1/2/2019

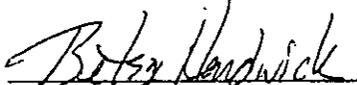


RE: NH /DES Aquatic Mitigation Fund Program

I, Betsy Hardwick, Vice-Chair of the Francetown Land Trust, Inc., do hereby certify that the Board of Directors of the Francetown Land Trust, Inc., 1) has authorized B. P. Haubrich, member of the Board of Directors, to enter into an agreement with the New Hampshire Department of Environmental Services, to execute any documents which may be necessary to effectuate this agreement, and 2) this authorization has not been revoked, annulled or amended in any manner whatsoever, and remains in full force and effect as of the date of this agreement, and 3) B. P. Haubrich has been elected to and now serves as a member of the Board of Directors.

  
B. P. Haubrich

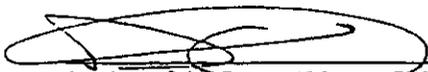
In witness whereof, I have hereunto set my name as Vice-Chair of the Board of Directors of the Francetown Land Trust, Inc. this day of December 18 2018.

  
Betsy Hardwick

State of New Hampshire  
County of Hillsborough

On this 18 day of December, 2018, Betsy Hardwick, personally appeared before me, acknowledging herself to be the Vice-Chair of the Francetown Land Trust, and that she, as such and being authorized to do so, executed the foregoing instrument for the purposes contained therein.

In witness whereof I hereunto set my hand and official seal.

  
Justice of the Peace / Notary Public

Nov 8, 2022  
COMMISSION EXPIRATION

PAMELA A. FINNELL  
Notary Public - New Hampshire  
My Commission Expires November 8, 2022

2671 ACRES CONSERVED IN FRANCESTOWN, LYNDEBOROUGH, GREENFIELD & BENNINGTON

CHRIS ROGERS, CHAIR BETSY HARDWICK, VICE-CHAIR GREG NEILLEY, TREASURER  
BARRY WICKLOW BEN HAUBRICH PAUL LAWRENCE LARRY AMES TED GRALLAM HANNAH PROCTOR

PO BOX 132, FRANCESTOWN, NH 03043 FRANCESTOWNLANDTRUST.ORG

State of New Hampshire  
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that FRANCESTOWN LAND TRUST, INC. is a New Hampshire Nonprofit Corporation registered to transact business in New Hampshire on December 01, 1986. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 106283

Certificate Number : 0004217793



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 30th day of November A.D. 2018.

A handwritten signature in cursive script, appearing to read "Wm Gardner".

William M. Gardner  
Secretary of State



FRANLAN-01

ELEWIS

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
12/03/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> License # 0C36861 Chantilly-Alliant Ins Svc Inc. 4530 Wainey Rd Ste 200 Chantilly, VA 20151-2285	<b>CONTACT NAME:</b> Edye Lewis	
	<b>PHONE (A/C No, Ext):</b> (703) 397-0977	<b>FAX (A/C No):</b>
	<b>E-MAIL ADDRESS:</b> edye.lewis@alliant.com	
	<b>INSURER(S) AFFORDING COVERAGE</b>	
	<b>INSURER A:</b> Federal Insurance Company	<b>NAIC #</b> 20281
<b>INSURED</b>  Francestown Land Trust PO Box 132 Francestown, NH 03043	<b>INSURER B:</b>	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
	<b>INSURER F:</b>	

**COVERAGES**                      **CERTIFICATE NUMBER:**                      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJ <input type="checkbox"/> LOC OTHER:		35750376	06/21/2018	06/21/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPROP AGG \$ Included \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED    RETENTION \$		7976-91-94	06/21/2018	06/21/2019	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A				PER STATUTE    OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
Grant or Other: ARM Fund grant request

<b>CERTIFICATE HOLDER</b>  NH DES- ARM Fund program Attn: Lori Sommer 29 Hazen Drive Concord, NH 03301	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
---	---

**ATTACHMENT A  
2018 Aquatic Resource Mitigation Fund Grants**

**Applications and Funding Amounts**

Grant Applicant	Location/Town	Requested Funding Amount	Score	Approved for Funding
Brox Community Lands Conservation Easement	Milford	\$20,000	58	Yes – full funding
Piscataquog South Branch Connectivity Project	Francestown	\$185,000	47	Yes – full funding
Robert French Fee..	Weare	\$185,000	47	Yes – full funding
Stillhouse Forest	Canterbury & Northfield	\$150,000	53	Yes – full funding
Country Hill Estates Parcel Preservation	Concord	\$350,000	47	Yes – full funding
Jennings CE	Goffstown	\$94,000	45	Yes – full funding
Parker Farm's Forest	Auburn	\$375,000	33	Yes – full funding
Donald Street Water Quality Improvement Project	Bedford	\$520,000	31	No

(Note: Each Committee member scores the projects and their scores are combined to create the total score.)

**Site Selection Committee List**

Name	Agency/Organization	Title	Years of Experience
Craig Rennie	NHDES, Land Resource Management Program	Land Resource Specialist	22
Pete Bowman	NH Dept. of Resources & Economic Development	Ecological Information Specialist	20
Michael Marchand	NH Fish and Game Department	Nongame and Endangered Species Coordinator	16
Peter Steckler	The Nature Conservancy	Director Freshwater Science & Conservation	16
Nancy Rendall	NH Association of Natural Scientists	Wetland Scientist	36

ATTACHMENT B

Piscataquog South Branch Connectivity Project/Franchestown

